

REMARKS

This Response and Amendment is in response to the Final Action mailed on November 14, 2003. Reconsideration of this application is respectfully requested.

Allowable Subject Matter

Applicant acknowledges, with appreciation, the allowability of Claims 13-16 if rewritten to include all of the limitations of the base claim and any intervening claims.

Drawings

The Final Action objected to the drawings for failing to comply with 37 C.F.R. 1.83 because they allegedly do not show every feature specified in the claims; namely, the “blade surface” specified in Claims 21, 26 and 33.

Figures 3A-3D of the drawings show the “blade surface” of the tube-clamping members 71, 77, however a reference numeral has not been used to designate the structure. To overcome this objection, Applicant submits herewith a proposed drawing correction for the Examiner’s approval. In Figures 3A-3D, Applicant has included reference numeral 301 for the blade surface of tube-clamping members 71, 77. Further, Applicant has amended the specification above to include a reference to the blade surface 301 of the tube-clamping members 71, 77.

Claim Rejections

1. The Office Action rejected Claims 1, 4-7, 9 and 17-20, 22-25 and 27-32 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,064,797 to Crittendon et al. (“the ‘797 patent”). This rejection is respectfully traversed.

Independent Claims 1, 17, 18 and 27 specifies, *inter alia*, that the first and second tube-clamping members are adapted to block the flexible tubing and the first and second tube squeezing members are adapted to constrict the flexible tubing.

The different terms – “tube-clamping,” “block,” “tube squeezing” and “constrict” – used in the claim provide different meanings to the structure, actions and/or results provided by the respective tube-clamping and tube squeezing members. This feature of the invention is also discussed in at least the following passage in the specification:

Different parameters are maintained similar to the previous embodiment, e.g., the tube blocking cam followers engage the respective tube segment so as to essentially block the tube’s lumen, whilst the tube squeezing cam followers engage the respective tube segment to only partially squeeze the tube’s lumen. This may be achieved by differently forming the tube-engaging surface of the cam followers, or by shortening their lengths or by different forms of the cams.

(Page 8, lines 1-6.)

The Final Action (pg. 3) states that:

Figures 4-6 illustrate the sequential operation of the tube-clamping and tube-squeezing members. Specifically, Figure 6 shows pumping element 100 is adapted to block the tubing 20. Similarly, Figure 4 shows pumping fingers 92-97 and 101-102 are adapted to constrict the tubing 20.

However, the Final Action fails to consider that Figures 4-6, in showing the sequential operation of the peristaltic pump, merely shows the pumping fingers 92-97, 98-101 in Figure 4 during a moment in their operation in which they have not been

moved to fully block the tubing 20. Upon reviewing the full sequential motion of the pumping fingers 92-97, 98-101 and the pumping elements 91, 102 (shown in Figures 4-8), it is clear that each of the pumping fingers and elements is adapted to fully block or close the tubing 20 during normal pump operation.

This understanding of Figures 4-8 is confirmed by the specification of the '797 patent, which specifically and exclusively discloses that the pumping members 91-102 close the tubing 20 to provide the desired pumping action. (See e.g., Col. 5, line 40 to Col. 6, line 15.)

Further, specific claim limitations cannot be ignored in a patentability analysis. The terms "block" and "constrict" are used in the claims and have different meanings. Likewise, the clear teaching of the '797 patent that the pumping members 91-102 close or block the tubing 20 cannot be ignored to arrive at a conclusion that "block" or "close" is the same as "constrict," especially when the claimed invention makes a distinction between the terms.

Based on the foregoing, Applicant submit that the '797 patent does not disclose each and every element or limitation of Claims 1, 17, 18 and 27, and the claims dependent thereon, and that the rejection based thereon should be withdrawn.

2. The Office Action rejected Claims 2, 8, 10-12, 21, 26, 33 and 34 under 35 U.S.C. § 103(a) as being unpatentable over the '797 patent in view of U.S. Patent No. 4,781,548 to Alderson et al. ("the Alderson patent") and U.S. Patent No. 4,617,014 to Cannon et al. ("the Cannon patent"). This rejection is respectfully traversed.

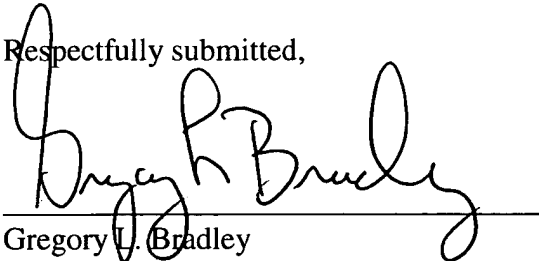
Applicant submits that the Alderson and Cannon patents also do not disclose or suggest the limitations of independent Claims 1, 17, 18 and 27 that are missing from or not taught by the '797 patent. The Final Action cited the Alderson and Cannon patents for subject matter related to the administration set and the "stoppers" of the squeezing segment of the flexible tube, respectively, not to the design and arrangement of the tube-clamping and tube squeezing members.

Because the Alderson and Cannon patents do not provide or suggest the missing elements or limitations of Claims 1, 17, 18 and 27, Applicant submits that the combination of their teachings with that of the '797 patent does not provide Applicant's claimed invention. Consequently, Applicant submits that the proposed combination of the '797, Alderson and Cannon patents does not render obvious the invention of Claims 1, 17, 18 and 27, and that the rejection based thereon should be withdrawn.

Conclusion

In view of the foregoing amendments and remarks, Applicants submit that the application is now in condition for allowance. Reconsideration of this application is respectfully requested.

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Respectfully submitted,


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